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SENATE

REPORT
99-362

AUTHORIZING ADDITIONAL LONG-TERM LEASES IN THE EL PORTAL ADMINISTRATIVE SITE ADJACENT TO YOSEMITE NATIONAL PARK, CALIFORNIA, AND FOR OTHER PURPOSES

AUGUST 1 (legislative day, JULY 28), 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 1390]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1390) to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, California, and for other purposes, having considered the same, reports favorably thereon with amendments to the text and recommends that the Act, as amended, do pass.

The amendments are as follows:

1. On page 4, line 5, strike out "section" and insert "sections".

2. On pages 4 and 5, strike section 5 in its entirety and insert a new section 5 as follows:

> "SEC. 5. In carrying out the provisions of this Act, the Secretary shall take care that there be no opportunity for any personal influence by an employee of the Department of the Interior upon the availability of housing for other such employees or employees of persons in a contractual relationship with the Department. In the selection of lessees and sublessees, the issuance of leases and subleases, the establishment of rental values, and the acquisition of any unexpired term of any lease or sublease, the Secretary shall act through an agent or agents appointed by the Secretary from among associations, corporations, or natural persons having no material, financial, legal, or equitable interest in the action proposed, other than a reasonable fee for their services.".

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Purpose of the Measure

H.R. 1390, as reported, would authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, by amending the Act of July 21, 1968 (82 Stat. 393), to apply the existing terms to additional groups of employees working in support of Yosemite National Park and to grant these leases for up to 99 years.

Background and Need

The El Portal administrative site was authorized by the Act of September 2, 1958, for the purpose of establishing an administrative site for the park to be located outside of the park boundary.

The El Portal site was authorized to include 1,200 acres of which 1,002 acres have been acquired. The legislation was designed to encourage both the concessionaire and the National Park Service to move nonessential housing and administrative facilities out of Yosemite Valley.

The Act was basically unsuccessful in accomplishing its objectives and was amended in 1968 to further encourage the desired action.

Since 1968 the concessionaire has been unable to obtain adequate construction financing because the maximum lease term is 55 years. Banking institutions in the area require a longer lease term as a basis for such loans. The Park Service has not been successful in obtaining the needed levels of appropriated Federal funding for employee housing and administrative facilities at the El Portal site. However, Federal funds have been provided for infrastructure construction of roads, water system, and sewage treatment facilities. As a consequence the Park Service is currently housing many of its employees in temporary structures which have been determined by the State of California Department of Housing and Community Development as substandard housing in central California. It appears unlikely that sufficient funding to construct adequate housing for the park employees will be appropriated in the foreseeable future.

H.R. 1390, as reported, (1) increases the length of the term for which leases may be issued at the El Portal administrative site adjacent to Yosemite National Park from 55 to 99 years; (2) broadens the class of lessees to include Federal employees and employees of public or private corporations; (3) expands the class of sublessees; (4) permits the proceeds from leases to be used for the El Portal administrative site; and (5) directs the Secretary to eliminate any possibility of personal influence in carrying out the provisions of the Act and that certain actions authorized to be taken by the Secretary be done through an agent having no material interest in the transaction.

Legislative History

H.R. 1390 was introduced by Representative Coelho on March 4, 1985. The measure was passed by the House of Representatives on July 15, 1985. On February 21, 1986, the Subcommittee on Public

Lands, Reserved Water and Resource Conservation held a hearing on H.R. 1390.

At a business meeting on July 16, 1986, the Senate Committee on Energy and Natural Resources ordered H.R. 1390, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on July 16, 1986, by unanimous vote of a quorum present recommends that the Senate pass H.R. 1390, if amended, as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker	
Mr. Domenici	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski*	
Mr. Nickles	
Mr. Hecht	
Mr. Evans*	
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum*	
Mr. Bradley*	
Mr. Bingaman*	
Mr. Rockefeller*	

*Indicates vote by proxy.

Committee Amendments

Section 5, as introduced, required an initial report on the El Portal administrative site to the Congressional Committees, and a progress report 3 years thereafter. These additional formal reporting requirements are unnecessary. The Department of the Interior will provide information to the Committees when requested to do so, but in the absence of a request from the Committee or an interested Member, an automatic statutory report is not needed.

The bill already contemplates, in the new section 2(a), that the Secretary may enter into a management contract for the "management" of the leases and the leased premises. The Committee amendment would go further in insulating the park superintendent from any appearance of personal influence in executing the authorities in the Act. First, the new section directs the Secretary to take care that there be no opportunity for personal influence. This direction will assure that regulations developed to implement the Act will not create such opportunities. Second, the new section would require as a matter of law that certain basic actions authorized to be taken by the Secretary under the law would have to be

done through an agent having no material interest in the transaction.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 22, 1986.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 1390, an act to authorize additional long-term leases in the El Portal administrative site adjacent to Yosemite National Park, California, and for other purposes, as amended and ordered reported by the Senate Committee on Energy and Natural Resources, July 16, 1986.

H.R. 1390 would authorize the Secretary of the Interior to grant leases for up to 99 years at the El Portal site adjacent to Yosemite. The act would also allow Park Service employees, along with park concessionaire employees, to acquire such leases. Based on information obtained from the National Park Service, we estimate that these proceeds would reach approximately $800,000 per year during the next decade. H.R. 1390 provides that lease proceeds may be credited to the appropriation for administration of the El Portal site, and if they are spent for such purposes, the act would have no net budgetary effect.

Enactment of H.R. 1390 would not affect the budget of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Best wishes,

Sincerely,

Rudolph G. Penner, *Director.*

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1390. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 1390, as reported.

Executive Communications

On September 11, 1985, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth ex-

ecutive views on H.R. 1390. These reports had not been received at the time the report on H.R. 1390 was filed. When the reports become available, the chairman will request that they be printed in the Congressional Record for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Act, H.R. 1390, as ordered reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF JULY 21, 1968

(82 Stat. 393; 16 U.S.C. 47-2)

That in furtherance of the purposes of the Act entitled "An Act to authorize the Secretary of the Interior to provide an administrative site for Yosemite National Park, California, on lands adjacent to the park, and for other purposes," approved September 2, 1958 (72 Stat. 1772), the Secretary of the Interior is authorized, notwithstanding any other provision of law, to lease lands within the El Portal administrative site for periods of [fifty-five years to any operator of concession facilities in the park, or its successor, for purposes of providing employee housing.] *not to exceed ninety-nine years to any individual, including an employee of the United States Government, to any operator of concession facilities in the park, or the administrative site, or its successor, or to any public or private corporation or oganization (including a nonprofit corporation) for purposes of providing employee housing, community facilities, administrative offices, maintenance facilities, and commercial services.* Such leases shall provide that [the concessioner may sublease the property to its employees] *if the lessee is a concessioner, corporation, or other organization (including a nonprofit corporation) such lessee may sublease the property to its employees, employees of the United States Government, or other individuals whose residence on the leased premises is solely in support of Yosemite National Park or the El Portal administrative site,* for terms not to excced the remaining terms of such leases, and they shall be subject to such terms and conditions as the Secretary of the Interior may require to assure appropriate administration, protection, and development of the land for purposes incident to the provisions of facilities and services required in the operation and administration of the park: *Provided,* That the Secretary of the Interior shall grant such leases in consideration of [an annual] payment to the United States of the fair rental value of the leased lands, as determined by him [at the beginning of each calendar year.].

SEC. 2. (a) Notwithstanding any other provision of law, the proceeds from any leases issued by the Secretary pursuant to the first section of this Act may be credited to the appropriation bearing the cost of administering (directly or by contract) the leases and of constructing, improving, and maintaining roads, utilities, buildings, and other facilities within the El Portal administrative site. In the

administration of the leases, the Secretary may contract for the management of the leases and of the leased premises, subject to such terms and conditions, including the right of the Secretary to purchase and sell the unexpired terms of leases and subleases, as will protect the interests of the United States. The Secretary may also contract for the use by him of any improvements to leased property for purposes of the El Portal administrative site or for purposes of Yosemite National Park and he may use the proceeds from any leases for the purpose of making payments under any such contract.

(b) The Secretary may at any time acquire the unexpired term of any lease or sublease issued or entered into pursuant to this Act by purchase with funds available from the proceeds of leases, or with donated or appropriated funds, or by donation or exchange.

[SEC. 2] *SEC. 3.* The Secretary of the Interior may enter into agreements with other Federal agencies and with any concessioner or its successor in order to effectuate the purposes of this Act.

SEC. 4. After the date of enactment of this section, no lease may be issued for the purpose of providing housing or other facilities in the El Portal administrative site except in accordance with regulations promulgated by the Secretary of the Interior. Such regulations shall establish the qualifications of natural persons and corporations who may be eligible to acquire a lease and a sublease, and they shall set forth the circumstances under which the Secretary many elect to acquire any unexpired lease or sublease. Such regulations shall become effective only after 60 calendar days from the day on which they have been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 5. In carrying out the provisions of this Act, the Secretary shall take care that there be no opportunity for any personal influence by an employee of the Department of the Interior upon the availability of housing for other such employees or employees of persons in a contractual relationship with the Department. In the selection of lessees and sublessees, the issuance of leases and subleases, the establishment of rental values, and the acquisition of any unexpired term of any lease or sublease, the Secretary shall act through an agent or agents appointed by the Secretary from among associations, corporations, or natural persons having no material, financial, legal, or equitable interest in the action proposed, other than a reasonable fee for their services.

SEC. 6. Any new spending authority (within the meaning of section 401 of the Congressional Budget and Impoundment Control Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts or to the extent that proceeds are available from any leases issued by the Secretary pursuant to the first section of this Act.

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